

THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.18958 OF 2007

Date: 24-12-2007

Between:

Sri Ramalinga Chowdeswari
Devanga Sankshema Sangam,
Sri Ramalinga Chowdeswari Temple,
Bukkapatnam (V&M), Anantapur District
Rep. By its President Nimmala Narayana

... Petitioner

And

1.The Asst.Commissioner,
Endowments Department,
Anantapur and others

... Respondents

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ORDER:

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This court ordered notice before admission on 11.9.2007 and issued rule nisi on 03.12.2007. Counter affidavit is filed by respondent No.1.

2. Heard Sri S.T.Gowd, the learned counsel representing the petitioner and the learned G.P. for Endowments.

3. Sri S.T.Gowd, representing learned counsel for the petitioner had taken this court through the affidavit filed in support of the writ petition and would maintain that a particular community people alone worship in the temple and it is a temple of denomination. The counsel also had placed before this court an order made by the concerned Deputy Commissioner, Kurnool in O.A.No.71 of 79 and would maintain that in similar fact situation some temple had been declared as a denomination temple.

4. The learned GP for Endowments had taken this court through the contents of counter-affidavit and would submit that as far as the relief prayed for in the writ petition is concerned, the same cannot be granted. However, it is for the petitioner to approach the competent authority, the concerned Deputy Commissioner, Endowments by making appropriate application for redressal of his grievance, if any. At any rate, in the present writ petition, no positive relief as such can be granted.

5. The writ petition is filed for a writ of mandamus declaring the

proceedings in Rc.No.43/2813/2007/Admn, dated 3.8.2007 of the 1st respondent as illegal, arbitrary and in violation of principles of natural justice, and also the provisions of A.P.Charitable and Hindu Religious Institutions and Endowments Act, 1987 as well as Article 14 of the Constitution of India, and consequently direct the respondents not to interfere into the maintenance of Sri Ramalinga Chowdeswari Temple, Bukkapatnam (V&M), Anantapur District and pass such other reliefs.

6. It is stated that the petitioner is the president of the Sri Ramalinga Chowdeswari Devanga Sankashema Sangam, Sri Ramalinga Chowdeswari Temple, Bukkapatnam (V&M), Anantapur District which was registered under the Societies Registration Act, 35 of 2001 vide Registration No.163 of 2002. The petitioner submitted that the above society was registered only to look after the maintenance of Sri Chowdeswari Temple, Bukkapatnam (V&M), Anantapur District. It is submitted that all the members of the Society are belongs to only Devanga Community. It is submitted that Sri Ramalinga Chowdeswari Temple is private temple of Devanga Community and it is a Denominational temple and the Management of the Temple is exclusively vest with the Devanga Community people alone and the other community people have absolutely no interest in the temple. It is submitted that it is pertinent to state that the temple was constructed by the Devanga community people alone with their funds. It is submitted that till today it is the Devanga Community people alone is maintaining the temple out of the funds collected among them. It is submitted that Chowdeswari Devi is the KULA DEVATHA of Devanga Community. It is relevant to state here that till today the Devanga Community person elected by the Devanga Community alone is maintained

the Temple and there was no interference from anybody. It is submitted that in various places similar temples are situated and the Endowments Department have already recognized Chowdeswari Devatha Temple as Private Temple of Devanga Community.

It is further stated that the petitioner-society also purchased 28 cents of land abutting to the temple for further development. It is submitted that the Devanga Community people worship the Chowdeswari Devi as their Kula Devatha and all community people of surrounding 20 villages used to meet in the temple to dissolve their disputes. It is submitted that every year in the month of October they are celebrating the ustavas while the matter stood thus the 1st respondent without issuing any notice to the present executive committee, constituted a board of trust to the temple in question to manage the affairs of the temple invoking the provisions of Section 15(3) of A.P.Charitable Hindu Religious Institutions and Endowments Act 30 of 1987. It is submitted that before exercising the powers under Section 15(3) of the Act the 1st respondent ought to have conducted an enquiry for enlisting the temple as religious under Section 6 of the Act. It is submitted that it is well settled law that if any action of the authority follows Civil Consequences the authorities should issue notice to the effected party before such action. It is submitted that they are not aware whether the temple was listed in the list of religious temples, and even it was listed they have not put on notice and there was no occasion for them to raise any objections in support of their claim. It is submitted that the history and Devanga Puranam published as early as in the year 1968 makes it clear that the Chowdeswari Devatha is worshiped by Devanga Community and the said diety is the Elelevelupu or

Kula Devatha of Devanga Community. It is submitted that they are having all necessary documents since 1937 in support of their claim. Therefore the action of the 1st respondent in constituting the Board of Trustees from other community is arbitrary, illegal and in violation of A.P.Charitable Hindu Religious Institutions and Endowments Act 30 of 1987 and in violation of the Article 14 of the Constitution of India it is not out of place to state the act has no application to private temples. In such circumstances, the writ petitioner approached this court praying for the reliefs specified above.

7. In the counter-affidavit filed to the 1st respondent it is stated that the writ petition itself is not maintainable. Further it is averred that it is false to state that the subject temple and the management of the temple is exclusively vested with the said community people alone and other community people have absolutely no interest in the temple. This institution has been published under Section 6©(ii) of the Endowments Act 30 of 1987 under SI.No.2047 by the Commissioner, Endowments Department, Hyderabad, who is competent authority to do so and hence it attracts the provisions of the said Act. The temple falls under jurisdiction of the Assistant Commissioner, Endowments Department, Anantapur. By mere getting registration of the said community under the societies Registration Act 35 of 2001, the said society cannot claim any rights over the temple and its administration. The Endowments Department is having exclusive rights on temple and action can be taken for appointment of Trust Board to the temple. At any time by any authority, the temple was not declared as private one under Section 87 of the Endowments Act. Unless and until the Deputy Commissioner, concerned declares it under Section 87, it cannot be called as private temple. All caste people belongs to

Hindu community who have faith in goddess area visiting temple for offering poojas devotionally. It is wrong to say that the said community people alone is developing the institution with their funds without raising donations from other caste people. Further it is false to state that without giving notice to the present committee, the respondents constituted a Trust Board to manage the affairs of the temple knowing that the temple in question is not having authorized Trust Board for effective management a notification was issued in proc.Rc.No.A3/2813/2007, Adm. Dated 11.6.2007 by the Assistant Commissioner inviting applications for appointment of trustees from the interested public if they have no disqualifications and stipulated certain conditions duly informing all, that action will be taken for constitution of Trust Board after 15 days from the date of issuing above notice. The said notices was sent it to Inspector, Endowments Department, Hindupur for affixture on important places to notify it to all people and asked to submit affixture report. The Inspector in his Rc.No.Nil/2007 dated 17.6.2007 has reported that he has affixed the said notification to the main door of the subject temple, Notice Board of Gram Panchayat, Office of the Mandal Revenue Officer, Bukkapatnam on 13.6.2007 and submitted affixture report to that effect. The five consent letters for appointment of Trustees received in this offence were sent to the Inspector, Endowments Department, Hindupur for enquiry and antecedents report in his Proc.Rc.No.A3/2813/2007, Adm. Dated 6.7.2007. In response to it, the Inspector in his Lr.dated 10.7.2007 has submitted that the following applicants sent in the above references ie.,

1. Sri Pasala Sreeramulu S/o Balaramudu (SC)
2. Smt. K.Saraswathi W/o S.Vasudeva Murthy (OC)
3. Sri Patti Chandrasekhar S/oChalapathy (OC)

4. Sri Devisetti Gangadhar S/o Chendrayudu (OC)

5. Sri Karnatakam Akkulappa S/o Ganganna (BC)

Have no disqualifications as laid down under Section 19 of the Endowments Act 30 of 1987 and the requested to appoint Trust Board with the above persons to the subject temple. Further it is averred that basing on the above report, a Trust Board with the above persons was constituted in this office proceedings in Rc.No.A3/2813/2007, Adm.dt.3.8.2007 fixing 14.8.2007 for oath of Office and secrecy to the newly appointed trustees and election of Chairman of Trust Board. The Inspector, Endowments Department, Hindupur, in his letter dated 27.8.2007 has reported that he has administered the oath of office and secrecy to the trustees on 14.8.2007 and the Trust Board in its special meeting unanimously elected Sri Platti Chandra Sekhar S/o Chalapathi as Chairman of Trust Board and requested to record the same. The same was recorded in this office in D.Dis.No.A3/2813/2007, Adm.dated 6.9.2007. It is also stated that thus the procedure was followed for appointment of Trust Board to the temple as required in the Endowments Act. There is no ban to the petitioner herein to apply for trusteeship if he really desires to be in authorized Trust Board appointed by the concerned authority for better management and development of the institution.

8. In the light of the specific stand taken in the counter-affidavit of R1, it is needless to say that whether the temple in question is a private temple or a public temple and whether the temple in question is a temple of denomination or not. These questions are factual controversies and this court cannot go into these factual controversies. Incidentally no doubt an order made in O.A.No.71 of 79 by the Deputy Commissioner, Endowments, Kurnool had

been placed before this court. It is needless to say that the competent authority, being the Deputy Commissioner of Endowments concerned, let the petitioner approach the concerned Deputy Commissioner, Endowments, Kurnool by making appropriate application in this regard within a period of four months and let the concerned Deputy Commissioner decide the matter in accordance with law within a period of three months thereafter.

9. Accordingly, the writ petition is disposed of. No order as to costs.

P.S.NARAYANA,J

24th December, 2007.

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